

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

BECKLEY DIVISION

KENNETH COZART,)
Plaintiff,)
vs.)
BLUESTONE INDUSTRIES, INC., ET)
AL.,)
Defendants.)

CASE NO. 5:18-CV-00397

ORDER

On this day the undersigned held an informal telephone conference regarding Plaintiff's Second Motion to Compel (ECF No. 50) and Plaintiff's Motion for Sanctions (ECF No. 52). Participating on behalf of Plaintiff was J.C. Powell, Esq. and on behalf of Defendants was John Hussell, IV, Esq. At the close of the discussions, the parties agreed as follows:

1. Defendants shall produce their responses to Plaintiff's Second Request for Production of Documents no later than March 8, 2019.¹
2. Defendants shall immediately produce the appropriate Authorization for Release of Financial Information to Plaintiff that includes the two known banking institutions used by Defendant Bluestone Industries, Inc.: Branch Banking and Trust Company (BB&T) and Community Trust Bank. The Authorizations shall be modified to the extent that

¹ The Court explained that the failure to object to the discovery requests within the period of time permitted by the local rules effectively negates any objections that the defendants would have had to the discovery. Specifically, LR Civ P 37.1(a) provides: "Objections to disclosures or discovery that are not filed within the response time allowed by the Federal Rules of Civil Procedure, the scheduling order(s), or stipulation of the parties pursuant to FR Civ P 29, whichever governs, are waived unless otherwise ordered for good cause shown. Objections shall comply with FR Civ P 26(g) and any claim of privilege or objection shall comply with FR Civ P 26(b)(5)."

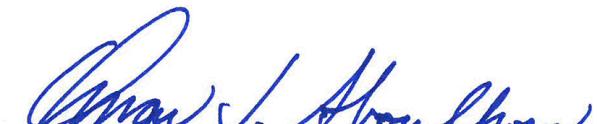
the clause “Account Holder has the right to revoke this Authorization in writing at any time” will be removed. *If there is/are any additional banking institution(s) disclosed in Defendants discovery responses, Defendants shall immediately provide another Authorization(s) to Plaintiff in order for Plaintiff to obtain the additional financial documents.*

3. Defendants shall provide to Plaintiff **three** sets of **three** consecutive days as alternate dates for the depositions of Stephen Ball, Jillean L. Justice, James T. Miller, James C. Justice, III, and Lindsey Wells to all be conducted in Beckley, West Virginia; upon confirmation by Plaintiff of the selection of one specific set of three consecutive days for the depositions, the witnesses **SHALL** appear for same and these depositions **SHALL NOT** be cancelled.

Accordingly, based on the foregoing, **Plaintiff's Second Motion to Compel** (ECF No. 50) is hereby **GRANTED** as stated herein. **Plaintiff's Motion for Sanctions** (ECF No. 52) is hereby **MOOT** based on the agreement reached by counsel for the parties regarding the depositions. The Clerk is requested to **TERMINATE** the **Motions**.

The Clerk is further requested to send a copy of this Order to all counsel of record.

ENTER: March 1, 2019.



Omar J. Aboulhosn
United States Magistrate Judge